

REMARKS

With the cancellation of claims 4 and 5, and the previous cancellation of claims 1-3, claims 6-8 are pending. The amendment to claim 6 is supported by the specification at page 3, lines 24-26.

Claim Rejection -- 35 U.S.C. 112, First Paragraph

Applicants respectfully traverse the rejection of claims 6-8 for non-enablement of the prevention of cerebral infarct. However, without acquiescence with the rejection, applicants have deleted “preventing” from claim 6. Withdrawal of the rejection is requested.

Claim Rejections -- 35 U.S.C. 102

Applicants respectfully traverse the anticipatory rejection of claims 6-8 as allegedly anticipated by Feng (CN 1257706). The Examiner relied on Feng for teaching the use of L-butylphthalide to combat thrombosis and thrombocyte coagulation. Without acquiescence with the rejection, applicants have deleted “preventing” from claim 6 and thus, rendering the anticipatory rejection moot. The prior art reference does not teach using L-butylphthalide to treat cerebral infarct in human beings. Withdrawal of the rejection is requested.

Applicants respectfully traverse the anticipatory rejection of claims 6-8 as allegedly anticipated by Xiong (Yaoxue Xuebao, 2000, 35(6): 408-412). The Examiner relied on Xiong for teaching the use of L-butylphthalide to reduce mitochondrial injury during cerebral ischemia. Without acquiescence with the rejection, applicants have deleted “preventing” from claim 6 and thus, rendering the anticipatory rejection moot. The prior art reference does not teach using L-butylphthalide to treat cerebral infarct in human beings. Withdrawal of the rejection is requested.

Applicants respectfully traverse the anticipatory rejection of claims 6-8 as allegedly anticipated by Chang (Acta Pharmacologica Sinica, August 2003, 24: 796-804). The Examiner relied on Chang for teaching the use of L-butylphthalide to improve ischemia-induced apoptosis. Without acquiescence with the rejection, applicants have deleted “preventing” from claim 6 and thus, rendering the anticipatory rejection moot. The prior art reference does not teach using L-butylphthalide to treat cerebral infarct in human beings. Withdrawal of the rejection is requested. Descriptive support for the amendment to claim 4 can be found in claim 1 as filed.

Claim Rejections -- 35 U.S.C. 103

Applicants respectfully traverse the rejections of claims 6-8 as allegedly obvious over Xiong or Chang.

Xiong discloses that the administration of L-butylphthalide in rats subjected to transient middle cerebral artery occlusion, which was an animal model of cerebral ischemia, reduced the increase in mitochondrial membrane fluidity caused by the transient cerebral ischemia (see Fig. 1, page 409). The increase in the mitochondrial membrane fluidity caused by the transient cerebral ischemia merely shows an impairment of the function of the mitochondrial (see line 1, right column, page 409). There is no evidence that the impairment of the function of the mitochondria would lead to cerebral infarct, or would be correlated with the volume of cerebral infarct, if any. Thus, applicants submit that the findings of Xiong do not suggest that L-butylphthalide would be effective in reducing the volume of cerebral infarct in subjects having cerebral infarct.

Chang discloses that L-butylphthalide inhibited transient focal cerebral ischemia-induced apoptosis (see the first sentence of the Discussion section, p. 802). However, Chang does not teach or suggest using L-butylphthalide to reduce the volume of cerebral infarct. Apoptosis is programmed cell death. To inhibit transient cerebral ischemia-induced apoptosis does not offer a reasonable expectation of success that L-butylphthalide can treat cerebral infarct by reducing the volume of the cerebral infarct.

At least due to the reasons discussed above, withdrawal of the rejection is requested.

Double Patenting Rejection

Applicants respectfully traverse the rejection of claims 6-8 for obviousness-type double patent rejection over claims 1-4 in copending U.S. patent application, No. 11/629,964.

Applicants note that claims 1-4 of the copending application are drawn to a method of treating dementia comprising administering L-butylphthalide. Since patients having dementia do not have cerebral infarct, the patients having dementia are not patients in need of the treatment of cerebral infarct. The treatment of dementia with L-butylphthalide would not suggest to a person of ordinary skill in the art to know with reasonable certainty that L-butylphthalide would be

effective in treating cerebral infarct. Dementia and cerebral infarct are two different diseases. Withdrawal of the rejection is requested.

The Examiner is invited to contact the undersigned at 202-220-4200 to discuss any matter in connection with this application.

In the event that the filing of this paper is deemed not timely, applicants petition for an appropriate extension of time. The Office is hereby authorized to charge any fees in relation to this paper under 37 C.F.R. 1.16 and 1.17 to the Kenyon & Kenyon Deposit Account No. 11-0600.

Respectfully submitted,

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